IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

MONDAY, THE 22ND OCTOBER 2007 / 30TH ASWINA 1929

MACA.No. 1143 of 2007()

OPMV.404/2004 of MOTOR ACCIDENT CLAIMS TRIBUNAL, PALA
.....

APPELLANT/PETITIONER:

SUHARA, W/O. SAINUDEEN,
KANIYAMKUNNEL HOUSE, PATHAZHAPPADY,
NADACKAL P.O., ERATTUPETTA, KOTTAYAM DISTRICT.

BY ADV. SRI.V.K.PEERMOHAMED KHAN

RESPONDENTS/RESPONDENTS:
----

1. **AJMAL, S/O. MUHAMMED KUTTY,**
   MANAKKATTU HOUSE, EETTILAKKAYAM BHAGOM,
   NADACKAL P.O., ERATTUPETTA, KOTTAYAM DISTRICT.

2. **K.V.CHACKO, S/O. VARGHESE,**
   KURISHUPARAMBIL, ANAKKALLU P.O., KANJIRAPPALLY,
   KOTTAYAM DISTRICT.

3. **THE UNITED INDIA INSURANCE CO. LTD.,**
   REPRESENTED BY THE BRANCH MANAGER,
   MUVATTUPUZHA, ERNAKULAM DISTRICT.

R3 BY ADV. SMT.P.K.SANTHAMMA
R1 BY SRI.P.V.GEORGE(ONAKKOOR)
SRI.REJI GEORGE

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON 22/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.PADMANABHAN NAIR,J

==========

M.A.C.A.No.1143 of 2007

==========

Dated this the 22nd day of October, 2007

JUDGMENT

The petitioner in O.P.(M.V.) No.404/2004 on the file of Motor Accidents Claims Tribunal, Pala is the appellant. The appellant sustained injuries in a motor vehicle accident which took place on 4.12.2003. She filed original petition claiming compensation impleading owner, driver and insurer of the vehicle. It was alleged that accident occurred due to the negligence of the driver. Owner and driver did not contest the matter. Insurer alone contested. Insurer contended that the accident occurred not due to the fault of the driver. Quantum of compensation claimed was disputed. According to insurer, the accident occurred due to the negligence of the appellant. The trial court found that accident occurred due to the negligence of the driver of the vehicle. The Tribunal awarded a compensation of Rs.21,880/- and directed the insurer to pay the same. Challenging the compensation awarded, this appeal is filed.

2. The only question arising for consideration is as to whether the appellant is entitled to additional compensation.

3. Ext.A8 medical certificate issued from the Department of Oral & Maxillo-facial Surgery indicates that there is avulsion of five teeth in addition to other injuries. She sustained dento-alveolar fracture lower anterior region and undisplaced nasal bone fracture. She was treated in three different hospitals. Though she lost nearly six teeth, no compensation was awarded on that count. I am of the view that the Tribunal ought to have granted at least an amount of Rs.12,000/- more for pain and suffering. I do not find any reason to modify the amount awarded on other counts.

In the result the appeal is allowed in part. An award is passed allowing the appellant to recover an amount of Rs.12,000/- as additional compensation from the respondents with six percent interest from the date of petition till the date of realisation. The third respondent insurer is directed to deposit the above amount in favour of the appellant. On deposit the appellant can withdraw the entire amount.

K.PADMANABHAN NAIR, JUDGE

dvs